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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/914,972	12/14/2001	Kay Brodesser	BRODESSER ET AL -2 PCT	6642

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EXAMINER
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BENTON, JASON

ART UNIT	PAPER NUMBER
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3747

DATE MAILED: 10/03/2002

# 7

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/914,972

Applicant(s)

BRODESSER ET AL.

Examiner

Jason Benton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 14-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-22 and 24-29 is/are rejected.
- 7) ☒ Claim(s) 23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 14, 19, and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Pacheco et al.

The patent by Pacheco et al. (5,651,338) shows an intake system with a modular design for an internal combustion engine. An air distributor module (30) is made of plastic which can be connected to an air intake of the internal combustion engine. There is a plurality of one-piece intake manifold modules (50) made of plastic. Each of the modules are manufactured as a separate part from the air distributor module. Each of the modules are connected at one pipe end to the air distributor module, and is assigned to one combustion chamber of the internal combustion engine. At least one flange module (54) made of plastic in one piece, to which at least one of the intake manifold modules is connected at its other pipe end and which can be mounted on the internal combustion engine.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15-18, 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pacheco et al.

It is the view of the examiner that varying methods of producing plastic units are well known in the art. Therefor the method of producing the plastic manifold runners and the flange modules are choices of design that do not result in patentably distinct methods.

Claims 20, 21, 28, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pacheco et al. in view of Choushi et al.

The patent by Pacheco et al. does not show a flange module extending along one side of the air distributor. The patent by Choushi et al. (4,643,137) shows a flange module extending along one side of the air distributor module and in parallel with it, and the minimum of one intake manifold module is connected to an area of the air distributor module that faces away from that side. It is the view of the examiner that intake manifold modules are connected to the air distributor module at a top side.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pacheco et al. in view of Choushi et al.

It is the view of the examiner that varying methods of joining pieces are well known in the art. Therefor the method of joining the intake manifold modules to the air distributor module is a choice of design that does not result in a patentably distinct method.

***Allowable Subject Matter***

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Claim 23 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Benton whose telephone number is (703) 305-6800. The examiner can normally be reached on flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Mancene can be reached on (703) 308-2696. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7766 for regular communications and (703) 308-7766 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 1.

JB  
September 24, 2002



Willis R. Wolfe  
Primary Examiner  
Art Unit 3747